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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/824,122

04/14/2004

Gregory Ashton

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27752

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10/16/2006

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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EXAMINER

HILL, LAURA C

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/824,122

Applicant(s)

ASHTON ET AL

Examiner

Laura C. Hill

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 15 August 2006 have been fully considered but they are not persuasive. In response to Applicant's argument that the St. Louis reference does not appear to disclose that the gusset attachment 172 *encloses* the gusset-flap member and thus there is no recitation that the dual cuff is enclosed by the cuff bond as recited in claim 1 (see Remarks page 8), Examiner maintains that the gusset attachment 172 encloses gusset-flap member 19 since each containment flap section 144 is integrally formed with a corresponding one of the leg gusset sections 142 and is positioned relatively inboard therefrom to provide gusset-flap member 19 (column 4, lines 53-56, figure 6). Moreover it is noted that Examiner has correctly interpreted the term "enclosed" consistent with what is defined in the Specification (see page 10, lines 25-28) to be interchangeable and equivalent to the term "bonded." Thus since the gusset attachment/cuff bond 172 is bonded and attached by leg gusset sections 142 that comprise the gusset-flap member 19, the "enclosed" recitation of claim 1 has been met.

In response to Applicant's arguments that the St. Louis reference does not appear to disclose that the elastomeric members 68a or 138 are secured *near their first and second ends* as recited in claims 1 and 15 (see Remarks page 9), Examiner notes that the "first and second ends" have not been defined anywhere by Applicant to be limited to the distal and proximal ends or proximal and distal ends, respectively. Thus Examiner maintains that the first elastic 68, 68a is secured to first cuff at its first and

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second distal and proximal ends and the second elastic 138 is also secured to first cuff at its first and second distal and proximal ends (see page 4 of the Office action dated 15 May 2006 and also St. Louis figure 6) [Also, please note that the "first cuff" has been interpreted to be the upstanding portion between elements 141 and 172 and the "second cuff" has interpreted to be the parallel portion lying between elements 172 and 140.]

Drawings

All objections to the drawings have been removed in view of Applicant's response on 15 August 2006.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by St. Louis et al. (US 5,993,433; herein 'Louis'). Regarding claims 1-2, 4, 6-7, and 15-16 Louis discloses a unitary disposable pre-fastened absorbent article such as adult incontinence garments or training pants (column 3, lines 26-38) comprising: an absorbent body structure 32 sandwiched between liquid permeable top sheet layer 28 and impermeable back sheet layer 30 (column 3, lines 52-56 and column 8, lines 41-46); and an elastically contractible dual cuff 19 having proximate end/area near edge 141 and distal end/area near edge 140 (column 4, lines 60-63, figures 1 and 6), said

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dual cuff 19 being joined to the article via single leg gusset attachment/cuff bond 172 (column 18, line 66-column 19, line 11 and figure 6), said first cuff being on the left side disposed between proximate end 141 and cuff bond 172, said second cuff being disposed between the cuff bond 172 and distal end 140 (figure 6), said dual cuff 19 being constructed of a continuous cuff material 174 and enclosed by the cuff bond 172 (column 4, lines 60-63 and figure 6), wherein the distal end is formed by folding the cuff material 174 (column 5, lines 40-42 and figure 6); wherein first cuff envelopes at least one first elastic 68a (column 5, lines 42-46) and wherein the at least one first elastic 68, 68a is secured to the first cuff near the first and second ends (figure 6); wherein second cuff envelopes at least one second elastic 138 (column 5, lines 7-12), wherein the second elastics 138 are secured to the second cuff near the first and second ends (figure 6); wherein the first and second cuffs are elasticized upright barrier cuffs (figures 1, 4 and 6).

Regarding claim 3 Louis discloses first cuff elastics 68, 68a associated with second cuff via an adhesive (column 16, lines 55-64)

Regarding claim 5 Louis discloses second cuff elastics 138 are associated with the first cuff by securement via an adhesive strip 174 (column 16, lines 10-16 and figure 6).

Regarding claims 8-12 Louis discloses gusset-flap members 19 having continuous cuff material made of spunbond/lesser water-permeable-meltblown/more water permeable laminates and other conventional materials such as polymer films (column 7, lines 55-67).

Regarding claims 13 and 17 Louis discloses first and second cuffs as discussed above with respect to claim 1 above. Louis further discloses the first cuff stands taller than the second cuff (figure 6).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Hill whose telephone number is 571-272-7137. The examiner can normally be reached on Monday through Friday (hours vary).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laura C. Hill
Examiner
Art Unit 3761

LCH



TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

